

ANNUAL COMMUNITY ASSESSMENT REPORT

**City and County of Honolulu
Program Year 2011: July 1, 2011 to June 30, 2012**

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Introduction

The Housing and Community Development Act of 1974, as amended, and the National Affordable Housing Act of 1990 require federal grant recipients receiving federal assistance under the Acts to submit an annual performance report disclosing the status of grant activities. The U.S. Department of Housing and Urban Development (HUD) is required by 24 CFR 91.525 to determine whether the grant recipient is in compliance with the statutes and has the continuing capacity to implement and administer the programs for which assistance is received. In accordance with 24 CFR 91.525, HUD's comments below and the cover letter above incorporate the Department's assessment of the City and County of Honolulu's (City's) program year 2011 performance.

In assessing the City's performance, HUD relied primarily upon the City's program year 2011 Consolidated Annual Performance and Evaluation Report (CAPER), technical assistance, on-site monitoring, and communications with the City's federal programs staff. During this period, the City generally met the intent of the Emergency Shelter Grant (ESG) and Housing Opportunities for Persons with AIDS (HOPWA) programs and was successful in its management of the ESG and HOPWA programs. However, HUD has serious concerns regarding the City's implementation of its Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) programs.

Significant Performance Conclusions

Overall, the City has had some capacity issues with its management of its CDBG and HOME programs.

- CDBG eligible use and national objective - grantees must use real property acquired or improved with CDBG funds in excess of \$25,000 in compliance with a national

objective in accordance with standards in 24 CFR 570.505. For subrecipients, at a minimum, the standards for use of real property shall apply from the date CDBG funds are first spent for the property until five years after the close out of the grant from which the assistance to the property was provided. CDBG regulations at 24 CFR 570.502(a)(16) require grantees to maintain records providing a full description of each activity assisted with CDBG funds and demonstrating that each activity undertaken meets one of the criteria for national objective set forth in 24 CFR 570.208 for four years after the end of the CDBG real property use period.

HUD monitoring revealed weaknesses in the City's ongoing management of open activities and completed activities still within the eligible use period. Issues qualifying activities under the CDBG regulations were sometimes so problematic that the City requested and received HUD assistance on how to qualify activities. Despite City staff and HUD concerns, the City proceeded with activities in a manner contrary to HUD guidance. The City's actions resulted in HUD monitoring findings and/or concerns regarding compliance with CDBG eligible use and national objective requirements.

- Sale of City property - HUD advised the City that if CDBG-assisted property is sold during the CDBG real property use period, the City needs to sell the property at highest and best use if the City would like to remove the CDBG real property use restrictions in accordance with 24 CFR 570.505. Despite HUD guidance, the City did not advise the potential buyers which properties were CDBG-assisted and, therefore, subject to the CDBG eligibility and national objective requirements. The City's decision to sell the properties as "affordable" but without the CDBG national objective do not relieve the City from its obligation to repay CDBG its share of the fair market value at highest and best use. The City owes to the CDBG program the fair market value at highest and best use despite only receiving proceeds from an "affordable" sale unless it retains the CDBG requirement in the properties.
- Possible kickback on CDBG assisted project – kickbacks involving funds provided by the federal government are illegal under 41 U.S.C.A. §§ 51-58, the Anti-Kickback Enforcement Act of 1986. Honolulu Civil Beat reported on a 2004 letter showing that a CDBG subrecipient asked for a \$90,000 donation in exchanged for a multimillion dollar construction contract involving CDBG funds. A copy of the letter was found in City CDBG records. However, the City took no action on the letter until 2012 when the possible kickback letter was provided to the Department of Budget and Fiscal Services Director.
- Forgiveness of CDBG and HOME loans – prior to the City's development and implementation of its written policy and procedures for converting loans to grants, the City forgave a subrecipient's \$1.2 million CDBG loan. Per City staff one reason for the CDBG loan forgiveness was related to subrecipient's failure to keep the property from any attachment, lien, or encumbrance. If the subrecipient had made payments to the City on the CDBG loan, the funds received by the City would have been program income subject to CDBG requirements.

Around the same time period that the City converted the subrecipient's CDBG loans to grants, the City received requests to forgive loans from three other nonprofit organizations whose projects were financed with CDBG and/or HOME program funds. The City elected to defer its review of the three requests until it completed a formal policy and procedures for the conversion of existing CDBG and HOME special needs housing loans to grants. HUD is concerned that the City did not manage all requests to forgive CDBG and/or HOME loans in a fair and consistent manner. The City failed to justify why one subrecipient's forgiveness was of greater importance than the other organizations' requests for forgiveness that warranted forgiveness before the City developed a formal policy forgiving CDBG and HOME loans.

- HOME affordability - HOME regulations require participating jurisdictions to ensure affordability requirements for properties assisted with HOME funding. To ensure affordability, HOME participating jurisdictions must enter into written agreements before disbursing any HOME funds to any entity (subrecipients, owners, developers, sponsors, CHDOs, and beneficiaries). The written agreements must ensure compliance with the HOME requirements of 24 CFR 92.252 and 92.253 for rental housing and 24 CFR 92.254 for homeownership. In addition to the participating jurisdictions written agreements, participating jurisdictions need to enforce the affordability requirements through deed restrictions or land covenants.

HUD monitoring revealed weaknesses in the City's HOME affordability requirements. In prior years, HUD required the City to revise its template for HOME written agreements and amend its written agreements for projects still within the affordability period. However, the City did not amend its written agreement for some HOME projects. The City's actions resulted in a repeat HUD monitoring finding regarding deficiencies in the City's HOME written agreements and HOME use restriction agreements.

CPD Programs

CDBG

The City used CDBG funds to address affordable housing, homelessness, public services, public facilities, community development and economic development needs during program year 2011. During the program year, 99.94 percent of CDBG funds (excluding funds expended for administration and planning) were spent on activities that benefited low and moderate income persons.

The City's Consolidated Plan describes the following high priority concerns that will be addressed through the CDBG program: public facilities for seniors, persons with disabilities, homeless, youth, health care, mental health care, and fire stations and equipment; public services

for seniors, persons with disabilities, youth, legal services, substance abuse services, and health services; and needs assessments/planning. During the program year, the City expended \$15,099,560 CDBG funds on 45 projects. The City carried out 18 public facilities and improvement activities, 18 public services activities, three (3) affordable rental housing activities, two (2) affordable homeowner housing activities, two (2) community development activities, and two (2) economic development activities. The City surpassed some of its activity goals for the program year, such as in the areas of providing funding for affordable and special needs rental housing, services to assist homeless achieve housing stability, renovation of homeless shelters, equipment for fire services in low and moderate income communities, microenterprise assistance and various services to low- and moderate income persons. The City has also made progress towards its activity goals in the areas of providing funding for affordable homeowner housing, acquisition, construction, and renovation of public facilities benefiting low and moderate income persons, and supporting the development of NRSAs.

The City met or surpassed the following Consolidated Plan goals for program years 2010-2011:

- Completed infrastructure improvements for one (1) affordable and special needs rental housing project with 148 units;
- Provided for social services including case management, work readiness, employment assistance, housing placement, and legal services to assist 191 persons experiencing homelessness;
- Renovated of two (2) emergency and transitional shelters that serve 1,288 homeless;
- Acquired four (4) fire protection apparatus that will improve public health and safety of 96,482 people in four (4) low and moderate income communities;
- Renovated one (1) City owned facility to benefit 267 people in a low and moderate income community;
- Expanded economic development opportunities by providing micro-enterprise assistance to 103 low and moderate income persons;
- Provided support services to 1,251 predominately low and moderate income youth;
- Provided services to 1,542 victims of domestic violence;
- Served 564 low and moderate income persons needing health care; and
- Served 5,665 low and moderate income persons through public service activities such as food, outreach, case management, life skills, and employment training.

The City did not accomplish its Consolidated Plan goals for program years 2010-2011 to:

- Construct or rehabilitate public facilities to comply with accessibility requirements for persons with disabilities;
- Provide rehabilitation loans to Chinatown businesses and businesses in other low and moderate income neighborhoods to preserve the economic centers of low and moderate income communities;
- Provide Section 108 Loan Guarantees and float loans to businesses in CDBG eligible areas to assist and promote business expansion, job creating or retention, and other special economic development activities;
- Fund economic development projects;
- Provide homeownership counseling to low and moderate income families; and
- Provide transportation services for low and moderate income persons, homeless, and persons with other special needs.

HUD reviewed the City's report of progress against the performance benchmarks established for the Wahiawa and Ewa Beach NRSAs. HUD determined that the City and its NRSAs are making progress towards achieving their goals. However, the City has not offered enhanced flexibility in undertaking economic development, housing, and public service activities with its CDBG funds in communities with approved NRSAs. The City should work with its NRSAs to create meaningful economic and employment opportunities and to demonstrate significant, measurable results towards revitalization of NRSA communities.

The City has six CDBG funded activities that are slow moving funded in program year 2006 or earlier. These activities include Kahuku Village, Kulana Malama, Ewa Villages Area H, Waianae Coast Community Mental Health Center - Hui Hana Pono Clubhouse, Habitat for Humanity Leeward, and Hawaii Housing Development Corporation Hale Wai Vista. HUD also identified four CDBG activities funded in program years 2007 – 2010 that are slow moving. These activities include Pacific Housing Assistance Corporation Iwilei Senior Center, Waianae Coast Comprehensive Health Center, Honolulu Fire Department Fire Protection Apparatus for Hauula, Nanakuli Hawaiian Homestead Community Association Cope Center, and Special Olympic Kapolei Complex. HUD acknowledges the City's efforts, as described in the CAPER, to work with the organizations to complete construction and start operations. The City should continue to closely monitor these activities and ensure that they progress in a timelier manner.

HOME

The City is expending its HOME funds toward projects that will assist low- and moderate-income persons. During the program year, the City expended \$8,105,329 HOME funds on six projects. HOME funds are required to be committed within 24 months and expended within 60 months of the grant award. Failure to commit and expend funds within the

required time period will result in the deobligation of the funds. During this period, the City met the commitment and expenditure requirements within the required time periods.

HUD congratulates the City for taking affirmative steps to maintain its good standing in two out of five red flag indicators regarding the City's HOME program performance. Specifically, the City maintained good standing in percentage of renters below 50 percent of the area median income and percentage of occupied rental units to all rental units. The City's efforts resulted in an overall ranking in the 16th percentile which places the City in the top 84 percent of local participating jurisdictions in the nation.

The City still has three flags for percentage of rental disbursements to all rental commitments, percentage of completed CHDO disbursements to all CHDO reservations, and allocation years not disbursed. The City is ranked in the bottom 3 percent in the nation for HOME fund rental disbursements to all rental commitments. The City is ranked in the bottom 3 percent in the nation for CHDO disbursements to all CHDO reservations. The City is ranked in the bottom 26 percent in the nation for HOME funds disbursed. HUD recognizes that the City has made some improvements in its disbursement of HOME funds. HUD strongly encourages the City to take steps to improve its timely expenditure of the funds as poor performance in this area may result in the future loss of HOME funds.

Two years ago, the City opened the doors to two HOME funded affordable housing projects that completed construction. The two HOME projects remain open in IDIS pending final payment or completion of occupancy report.

- Construction of Housing Solutions Seawinds; and
- Construction of Hawaii Housing Development Corporation Hale Wai Vista.

The City needs to resolve all issues, report beneficiary data, and complete the above listed activities in IDIS in a timely manner. The HOME final rule at 24 CFR 92.502(d)(1) requires the City to enter project completion information into IDIS within 120 days of making a final draw for a project.

The City has one HOME funded project, Hui Kauhale Ewa Villages Area H that is slow moving funded in program year 2006 or earlier. HUD also identified two HOME projects funded in program years 2007 – 2010 that are slow moving: Coalition for Specialized Housing Hale Mohalu II and Hawaiian Community Development Board Nanakuli Affordable Rentals. HUD understands the challenges of implementing housing construction projects due to high costs and encourages the City to continue its leveraging of other federal, state, and private resources to supplement its HOME allocations to further develop affordable housing projects on Oahu. HUD acknowledges the City's efforts, as described in the CAPER, to work with the organizations to complete construction and start operations. The City should continue to closely monitor these projects to ensure that they progress in a timelier manner.

ESG

The City supported a number of homeless shelters and providers during the program year. The City expended \$429,746 ESG funds and carried out eight activities funding homeless shelter operations and essential services.

The City met or surpassed the following Consolidated Plan goal to strengthen communities for program years 2010-2011:

- Provided grants to service providers to pay operating costs for five (5) emergency and transitional shelters to shelter 4,195 homeless people in the last two years; and
- Provided for social services including case management, work readiness, employment assistance, housing placement, and legal services to assist 1,429 persons experiencing homelessness stabilize and eventually transition out of homelessness in the last two years.

The City's support has ensured that the City's homeless are given an opportunity to become self-sufficient. HUD encourages the City to continue its support of its homeless providers.

ESG funds are required to be committed within 180 months and expended within 24 months of the grant award. The City has one ESG funded activity, Institute for Human Services Sumner Street emergency shelter operations that is slow moving funded in program year 2009. The City should review the status of this activity and take affirmative steps to complete the activity and report the accomplishments in IDIS.

During the program year, the City matched the ESG funds provided by HUD with \$466,611 in CDBG match funds expended. HUD congratulates the City meeting the dollar-for-dollar match required by the ESG regulations.

HOPWA

The City distributes its HOPWA allocation to the Gregory House Programs and Life Foundation who provide tenant-based rental assistance, short-term rent mortgage and utility payments, and supportive services to individuals with HIV/AIDS. During the program year, the City expended \$460,637 HOPWA funds HUD recognizes that the City has assisted more individuals than anticipated and has expended its HOPWA funds timely.

The City met or surpassed the following Consolidated Plan goal to provide affordable housing for special needs populations for program years 2010-2011:

- Provided housing specific supportive services to 521 persons with HIV/AIDS to help them secure housing and maintain their housing in the last two years.

The City took the following affirmative step towards accomplishing Consolidated Plan goals to strengthen communities in program years 2010-2011:

- Provided emergency rent, mortgage, and utility payment to 36 persons with HIV/AIDS who are at risk of homelessness due to the impacts of the HIV/AIDS infection in order to prevent homelessness in the last two years.
- Provided tenant based rental assistance to 64 persons with HIV/AIDS who would otherwise be unable to afford the cost to rent safe, sanitary, and secure long-term housing in the last two years.

The City's support has ensured that the persons with HIV/AIDS in Oahu have greater access to affordable housing and special needs services. HUD encourages the City to continue its support of its HIV/AIDS providers.

Continuum of Care

During program year 2011, the City undertook the following activities to address the needs of the chronic homeless: The City was the lead agency for the Honolulu Continuum of Care (CoC) application. The Honolulu CoC was awarded \$9.4 million in CoC funding for five (5) Shelter Plus Care project for over 300 vouchers and 20 Supportive Housing Program projects including four (4) permanent housing, 12 transitional housing, one (1) supportive service only, two (2) homeless management information systems, and one (1) safe haven.

The City continues to develop and strengthen its Continuum of Care program. The City is a participant in the Hawaii Interagency Council on Homelessness, whose goal is to develop a plan to more comprehensively integrate a system of housing and services to assist individuals who are chronically homeless. The City works in partnership with Partners In Care to develop, enhance and implement a Continuum of Care strategy for the homeless. HUD wishes the City and its partners continued success in implementing actions to end homelessness.

Community Empowerment

As part of its Consolidated Plan, the City developed a Citizen Participation Plan. The Plan is intended to develop ways to involve the public in the development of the Consolidated Plan/Action Plan. Opportunities were provided for citizen participation in the development of the Plan and performance report through public hearings. The City reported that no oral or written comments were received. HUD encourages the City to continue its efforts to foster public participation and encourages the City to explore additional opportunities to involve the public in its planning process.

Management of Funds

In accordance with the CDBG regulations, the timeliness ratio benchmark should be 1.50 sixty days prior to the end of the City's program year. On May 2, 2012, the HUD determined that the City passed the first tier of the CDBG timeliness test by achieving a timeliness ratio of 1.44 based upon the City's CDBG balance in the Line of Credit Control System. The City failed the second tier of the timeliness test by exceeding the 1.50 threshold with a score of 1.75 when the City's CDBG program income and revolving loan fund balances were taken into account. As a follow up, HUD reviewed the City's documentation of the flow of funds from the CDBG Rehabilitation Loan fund and determined that the City has an active CDBG revolving loan fund and that a CDBG workout agreement was not necessary.

City identified limited funding as one of four barriers to meeting its Consolidated Plan objectives. While the City has no control over the amount of CPD funds it receives, it is within the City's Consolidated Planning process to mitigate the impact of the City-identified barriers. The City may re-evaluate and revise its project selection process to:

- Award larger subgrants to fewer subrecipients;
- Participate in major, multi-year projects by providing multi-year funding to a project conditioned on the availability of future year grant funds from HUD and ensuring that each year's funding goes to a project phases is separate, distinct, and independent of each other; and.
- Apply for Section 108 Loan Guarantees for large projects that cannot be subdivided into separate, distinct and independent phases.

Areas for Improvement and Recommendations

The City needs to:

- Ensure that projects are timely and funds are protected from fraud, waste, and abuse.
- Strengthen the City's ongoing management of CDBG and HOME open activities and completed activities still within the CDBG eligible use period and HOME affordability period. Ensure that written agreements and recorded deed restrictions adequately enforce requirements.
- Implement the City's written policies and procedures for converting CDBG and HOME loans to grants in a fair and consistent manner.
- Identify project obstacles and develop plans to address these obstacles in order to strengthen its programs.

Fair Housing & Equal Opportunity

HUD encourages the City to continue its activities that address the impediments identified in the City's Analysis of Impediments (AI) document. The CAPER was forwarded to Mr. Jelani Madaraka, Lead Equal Opportunity Specialist, HUD Honolulu Field Office, to review for compliance with Fair Housing and Equal Opportunity requirements. He will forward any comments or questions he may have under separate cover.

Conclusion

Overall, the City is generally meeting its community needs by planning and executing a Consolidated Plan with a vision for the future and by implementing this Plan through its Annual Action Plan. While HUD has concerns about the City's CDBG and HOME programs, HUD notes that the City has assisted the entire community, especially low- to moderate-income individuals. HUD encourages the City to continue its support of various housing and community development programs. In closing, HUD would like to recognize the City's staff for their hard work and dedication to the CPD programs despite decisions that are beyond their control.